

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Lock See Yu-Jahnes Reg. No. 38667 on 03/23/2009.

The application has been amended as follows:

15. (Currently Amended) An apparatus according to claim ~~[[4]]~~ 8, wherein the received data is an ICMP echo message by an ICMP protocol and the detected value indicates a data length of the ICMP echo message.

17. (Currently Amended) A method according to claim ~~[[15]]~~ 12, wherein the received data is an ICMP echo message by an ICMP protocol and the detected value indicates a data length of the ICMP echo message.

REASONS FOR ALLOWANCE

2. The following is an examiner's statement of reasons for allowance: (RFC 2390, Fujimori et al. 6438607, Anderson et al. 5675741, Kano et al. 6310858 utilized in the rejection, & RFC 2131 and Woundy which were found in an updated search), does not teach nor suggest in detail, "a network apparatus or method a receiving unit for receiving data from a network;

3. a detecting unit for detecting a value indicative of a data length, the value being in a packet header of the data received by said receiving unit, the packet header being provided for a predetermined protocol; and

4. a setting unit for setting a logic address of said network apparatus based on a destination logic address of the received data so that the logic address of said network apparatus and the destination logic address of the received data are the same in a case where the detected value indicative of the data length is a specific value indicative of a specific data length different from actual data length of the received data, and a destination physical address of the received data and a physical address of said network apparatus are the same,” as argued by the Applicant (see Appeal Brief dated 01/21/2009, pages 3 – 17; Specification as of 02/22/2000, pages 21- 28; and Drawings dated 02/22/2000, Figures 9-14 of Applicant’s enabling portions of the specification and drawings).

5. Neither RFC 2390, Fujimori, Anderson and Kano teach, alone or in combination, the cited claim language above, as stated and argued in the Applicant’s Appeal Brief, more specifically, a setting unit for setting a logic address of said network apparatus based on a destination logic address of the received data so that the logic address of said network apparatus and the destination logic address of the received data are the same in a case where the detected value indicative of the data length is a specific value indicative of a specific data length different from actual data length of the received data, and a destination physical address of the received data and a physical address of said network apparatus are the same, wherein the data received is

an ICMP echo and in some cases the value is a TTL value and the addresses are IP for logic and MAC for physical.

6. The claimed invention teaches the use of a specific type of protocol, i.e., ICMP echo, to set the IP address of a device as seen in figure 10, with pages 22 – 24 and figures 13 & 14 with pages 25 – 28. As seen in the specification and taught by the claims in the application, a device receives an ICMP message and it is determined if the destination MAC address in the packet is the same as the receiving device, which is well known. If so, the device then determines what the data length or TTL value is, depending on the embodiment, and based on the value that is not utilized in a conventional way, i.e., the conventional manner is having the data length be the length of the packet or the TTL value be time in which the packet is to be available for processing, set the devices address as the address in the packet, see figure 10 and 14.

7. RFC 2390 does not teach this type of setting. RFC 2390 is the teaching of Inverse Address Resolution Protocol, in which it is stated that the protocol is utilized to send an address request to a device and when the packet has been routed to the destination device the packet is set with the IP address of the device. As one can see, this is the opposite of what the Applicant is claiming and argued in the Applicant's Appeal Brief since the application teaches the packet setting the device's IP address.

8. Fujimori was utilized to check for a specific value in the packet for the setting unit and determining if the value is different from what is conventionally used. Fujimori taught the conventional way of determining a value in a field but did not teach determining if the value was a specific value that is used to trigger the setting of an IP address. Fujimori taught determining if

there was errors in the packet if the value was not a specific value, which is not the same as what is claimed in the Applicant's invention and argued in the Applicant's Appeal Brief.

9. Anderson was utilized to teach an ICMP echo request that is used in the claimed invention but Anderson does not teach the modified ICMP echo request for setting an IP address in a device based in the determination of a specific value in a field, i.e., data length or TTL, as claimed in the invention and argued in the Applicant's Appeal Brief.

10. Kano was utilized to teach a TTL value but is not used in determining the specific value needed to trigger the device to use the ICMP echo request to set the devices address to the address in the packet header.

11. Other prior art documents that were found in an updated search are RFC 2131 and Woundy 6009103.

12. RFC 2131 teaches Dynamic Host Configuration Protocol, which is a protocol that has a DHCP server send an offer packet to a device to suggest an addresses and other parameters to and the device sends back what specific parameters and the address it would like. The DHCP server then sends back what the device requested if it is still available. This protocol does this through the use of BOOTP protocol. The difference between this and the claimed invention is that the claimed invention utilized a detected value that is set at a different value than what it is specifically made to hold, i.e., the data length could be 400 but the field that would state that would be set to 505 which would be determined as the command to set the IP address, this is also similar to the TTL field. Furthermore, in other embodiments of the invention, the use of ICMP is used and specifically manipulated to carry out this command. This is clearly not what DHCP does.

13. Woundy utilized DHCP in their patent but does much of the similar functions that are stated in RFC 2131 and also does not perform the functions as stated above, i.e., allocates IP addresses but does not utilize the same protocols as the claimed invention and does not utilize the fields that are set as different values than what is conventionally utilized in the art.

14. The cited areas of the prior art clearly do not find the Applicant's invention obvious and would be difficult to motivate one of skill in the art to combine these used references to come up with the Applicant's claimed invention.

15. The dependent claims further limit the independent claims and are considered allowable on the same basis as the independent claim as well as for the further limitations set forth.

16. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

17. Claims 1, 2, 4, 6, 8 - 10, 12, 13, 15, 17, 19 - 21 and 47 - 49 are allowed.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID E. ENGLAND whose telephone number is (571)272-3912. The examiner can normally be reached on Mon-Thur, 7:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tonia Dollinger can be reached on 571-272-4170. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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